

Appeal Decision

Site visit made on 3 October 2016

by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 October 2016

Appeal Ref: APP/N2345/W/16/3154966

181 Plungington Road, Preston, Lancashire PR1 7EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr K Reddy against the decision of Preston City Council.
 - The application Ref 06/2015/0634, dated 19 February 2015, was refused by notice dated 23 February 2016.
 - The development proposed is change of use from retail A1, to takeaway A5, including flue extractor ducting to rear.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from retail A1, to takeaway A5, including flue extractor ducting to rear, at 181 Plungington Road, Preston, Lancashire PR1 7EP in accordance with the terms of application Ref 06/2015/0634, dated 19 February 2015 and subject to conditions set out in the attached schedule.

Preliminary Matter

2. During the course of the appeal, the appellant proposed an amendment to the hours of opening to between 4pm and 10.30 pm on Mondays to Saturdays with no opening on Sundays. I have included this suggested amendment in my consideration of the appeal.

Main Issues

3. The main issue in this case are:
 - The effect of the proposal on the living conditions of neighbouring residents, having particular regard to noise and disturbance.
 - Whether the proposal would preserve or enhance the character or appearance of the Moor Park Conservation Area.

Reasons

The effect of the proposal on the living conditions of neighbouring residents

4. The appeal site is located at the junction of Plungington Road and Trafford Street, and presently comprises a vacant shop unit at ground floor level with a residential flat above. The wider surrounding area is primarily residential in character and comprises predominantly terraced housing.
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5. Policy AD1 (a) of the Adopted Preston Local Plan 2012-26 (Site Allocations and Development Management Policies) relates to development within residential areas and states that development will be permitted where, amongst other things, there would be no adverse impact on residential amenity, particularly by reason of noise, general disturbance and loss of privacy due to the activity under consideration or the vehicular/pedestrian movement it generates. In the light of that, the Council's concern centres on the impact of the proposed use in terms of comings and goings, increased vehicle movements and potential for anti-social behaviour, on the occupants of neighbouring properties.
6. Plungington Road is a busy road linking the Plungington local centre some 270m to the south of the site with Blackpool Road (A5085) to the north. All four corners of the junction between Plungington Road and Trafford Street are occupied by retail premises, including a Bargain Booze opposite which, I understand, is open until 11pm. In addition, the property lies immediately adjacent to a hairdresser's shop on Plungington Road. Therefore, although the site lies outside the local centre, the immediate area attracts a degree of activity in the daytime and evenings and does not have the same character as a quiet suburb.
7. Whilst there would be comings and goings associated with the business, the potential tenant indicates that the majority of orders would be on a home delivery basis; some would be collected by car and others on foot. I noted that there are, albeit limited, parking spaces on Trafford Street and in a car park close by. The management and precise type of facility may vary over time, however, given the busy character of the area and level of background noise, it is unlikely that vehicle movements associated with the business would generate a significant or noticeable amount of noise in the early evening.
8. At my site visit I noted the proximity of residential properties at the rear of the site, including a dwelling immediately facing the rear yard of the appeal premises. The originally proposed 11.00pm closing time, with closing up activities potentially in the yard area and staff leaving after this time, would result in a degree of late night noise and activity throughout the week that would cause harm to the living conditions of neighbouring occupiers. However, I am satisfied that the earlier closing times of 10.30pm on weekdays and Saturdays, as proposed by the appellant, and 10.00pm on Sundays, would prevent undue late night noise and disturbance.
9. I have taken into consideration that Bargain Booze opens until 11.00pm. However, that site does not appear to have an external yard area. Moreover the nature of the businesses is not the same. Consequently the two sites are not therefore directly comparable.
10. With regard to anti-social behaviour, no evidence has been produced to substantiate the claim that the business would cause anti-social behaviour. I note that the Police have not raised any such concerns and I am unconvinced on the basis of what I have seen and read, that the proposal would lead to the congregation of people outside the unit. In any event, other legislation exists to control any problems connected with this matter.
11. Accordingly, on the basis of the closing times set out, the proposal would not conflict with Policy AD1 (a) of the Local Plan which seeks to protect the amenity of local residents.

Whether the proposal would preserve or enhance the character or appearance of the Conservation Area

12. The Moor Park Conservation Area is characterised, in the vicinity of the site, by rows of terraced housing set out in a regular grid-like pattern. The significance of the area lies in its history, its demonstration of waves of development in the area and an aspect of Preston's industrial past.
13. The Council accept that the use itself would not have an adverse effect on the character and appearance of the Conservation Area, and I have no reason to disagree. However, I have taken into consideration the impact of the proposed external extraction flue which would be installed on the side wall of the rear portion of the property facing Trafford Street. The flue would have a relatively slim section and would project above the ridgeline of the rear part of the building.
14. Views of the flue, however, would be partly obscured by an existing boundary wall. Moreover, as result of the set back of this particular part of the building and the relative position of the neighbouring building, views of it in the wider street scene would very limited. Provided that the flue was coloured in an appropriate manner, it is unlikely that it would have a significant impact on the character or appearance of the building or wider area.
15. For these reasons, I am satisfied that the proposal would preserve the character and appearance of the Conservation Area and would not have an unduly harmful on the street scene. As such the proposal would be in accordance with Local Plan Policies AD1(a), EN8 and EN9, and Policy 16 of the adopted Central Lancashire Core Strategy which, in various ways seek to ensure that development proposals respect the character of an area and protect the historic environment.

Conditions and Conclusion

16. The Council has suggested various conditions in the event of the appeal being allowed. I have considered these conditions in the light of advice in the Planning Practice Guidance.
17. In the interests of proper planning and to provide certainty I have imposed the standard time limit condition and specified the approved plans. In order to protect the living conditions of neighbouring residents, conditions restricting the hours of operation and hours of goods/service delivery and collections are necessary. Although the appellant has suggested restricting hours of operation to after 4pm on Mondays to Saturdays with no working at all on a Sunday, such a restriction would not be necessary.
18. In order to safeguard the living conditions of neighbouring occupiers in terms of noise and odour, conditions requiring a scheme of noise insulation and the setting of maximum noise levels are required.
19. The proposal would provide an economic benefit to the area in bringing an empty shop unit back into use, and a social one in providing a facility for the local community. For the reasons outlined, and subject to the above conditions, any adverse impacts of the proposal would not significantly and demonstrably outweigh those benefits. Accordingly, the appeal is allowed and planning permission is granted, subject to the conditions set out.

S Ashworth

INSPECTOR

SCHEDULE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings: Existing Ground Floor Plan/Elevation dated February 2015 Sheet No.1/2 ; proposed Ground Floor Plan/Elevation dated February 2014 Sheet No 2/2.
- 3) The hours of operation of the takeaway shall be restricted to 09:00-22:30 Monday-Saturday and 09:00-22:00 on Sundays.
- 4) No service or goods deliveries or collections shall take place at the premises outside the hours of 09:00-20:00 Monday to Saturday.
- 5) Prior to the first occupation of the use, a scheme of noise insulation between the commercial takeaway premises and the residential premises at first floor level shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of the residential accommodation and thereafter retained.
- 6) The rating level for cumulative noise from the ventilation system shall not exceed 10 decibels (measured in dB9A)) below the background noise level at the nearest noise sensitive premises to the proposed development as assessed in accordance with British Standard 4142(2014). The plant should not display any acoustically distinctive characteristics such as tonality, impulsivity or intermittency. The system shall be designed to the standard stated in the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' for the type of takeaway proposed.